In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 347

MAX JABEN, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

The question presented is whether the court below properly held that the instant complaint before the United States Commissioner, charging petitioner with wilfully attempting to evade his taxes for the year 1956, was sufficient to toll the running of the statute of limitations on this offense. The decision, we believe, is correct, and all other courts, with one exception, have held virtually identical complaints to be sufficient. *Sanseverino* v. *United States*, 321 F. 2d 714, 715 (C.A. 10th); *United States* v. *Black*, 216 F.

Supp. 645, 648 (W.D. Mo.); *United States* v. *Scheetz*, 224 F. Supp. 789 (S.D. Ind.). However, in view of the conflict with the holding of the Court of Appeals for the Ninth Circuit in *United States* v. *Greenberg*, 320 F. 2d 467, the government does not oppose the granting of the petition for a writ of certiorari.

Respectfully submitted,

ARCHIBALD COX,
Solicitor General.

OCTOBER, 1964.

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